



State of Ohio Environmental Protection Agency

Southeast District Office

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Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

May 27, 2003

**RE: BELMONT COUNTY
WPS-MARTINS FERRY
RCRA-LQG
OHD010448231
CERTIFIED MAIL: 7001 1940 0006 6115 4887**

Mr. Bud Smith
Environmental Director
Wheeling Pittsburgh Steel Corporation
1134 Market Street
Wheeling, West Virginia 26003

Dear Sir:

On November 7 and 14, 2001, Ohio EPA conducted a compliance inspection of Wheeling Pittsburgh Steel Corporation's (WPSC) Martins Ferry Plant. The inspection was conducted to determine WPSC's compliance with Ohio's hazardous waste laws and regulations, as found in the Ohio Revised Code and Ohio Administrative Code (ORC and OAC, respectively).

Based on the observations from this inspection, Ohio EPA issued a Notice of Violation (NOV) letter to WPSC on December 12, 2001. Your response to this letter was received on April 24, 2002. A subsequent NOV was issued to you on September 16, 2002. I received your response on January 31, 2003.

Based on the copy of the manifest for the D018 waste provided with the January 2003 response, documenting the removal of hazardous waste that was stored in Plant #1, WPSC has returned to compliance with the following regulations:

- i. Accumulation time of hazardous waste, OAC Rule 3745-52-34(C);
- ii. Security, OAC Rule 3745-65-14.

Based on the 2001 inspection, WPSC remains in violation of the following regulations:

1. **Hazardous Waste Determination**, OAC Rule 3745-52-11: Any person who generates a waste in the State of Ohio shall determine if that waste is a hazardous waste using the following method: first determine if the waste is excluded from regulation under OAC Rule 3745-51-04, then determine if the waste is listed as a hazardous waste in OAC Rule 3745-51-30 to -35, and then determine if the waste is identified in OAC Rule 3745-51-20 to -24 by testing the waste using the methods in OAC Rule 3745-51-20 to -24 or by applying knowledge of the waste.

WPSC has not provided documentation of waste evaluations for the paint waste in the former paint booth in Plant #1.

Your January 2003 response cites your April 2002 response regarding the former paint booth waste, that this waste is not waste and will be evaluated when it becomes waste. As I have explained previously, the paint waste in and around the former paint booth is a "discarded material" that has been "abandoned" by being "accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated" as provided in OAC Rule 3745-51-02. WPSC will demonstrate compliance with this rule once this evaluation and adequate supporting documentation, i.e. sample results, are received by this office.

2. **Purpose and implementation of contingency plan**, OAC Rule 3745-65-51(B): The provisions of the contingency plan shall be implemented immediately whenever there is a fire, explosion, or release (any unplanned, sudden or non-sudden release) of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

WPSC has not demonstrated that they implemented their contingency plan when they found that the ARCO scrubber waste (D008) had been released onto the ground near a storm drain and that this condition may have caused off-site water contamination and the potential for generating lead-containing dust. Your January 2003 response cites the April 2002 response, which contends that this condition presented no threat to human health or the environment. Ohio EPA strongly disagrees with this assumption. This violation will be abated once WPSC demonstrates that facility personnel have been properly trained on implementing the contingency plan whenever any hazardous waste is released to air, soil or surface water which could cause off-site contamination or could create potentially hazardous conditions on-site.

3. **Emergency procedures**, OAC Rule 3745-65-56(J):...Within fifteen days after the incident (that requires implementation of the contingency plan), the owner or operator shall submit a written report on the incident to the director. The report shall include: 1) Name, address and telephone number of the owner or operator; 2) Name, address and telephone number of the facility; 3) Date, time and type of incident; 4) Name and quantity of material(s) involved; 5) The extent of injuries (if any); 6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; 7) Estimated quantity and disposition of recovered material that resulted from the incident; and 8) Any other information the director may require.

WPSC did not report the release of the ARCO scrubber waste (D008) in the lay-down yard. The January 2003 response cites the April 2002 response, which incorrectly assumes that implementing the contingency plan and emergency procedures was not warranted for this situation (potential or actual release of D008 waste to surface water and potential to create hazardous conditions on-site). To demonstrate compliance with this rule, provide the required report, with all required information, to the director and to this office.

4. **Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities**, OAC Rule 3745-270-07(A)(7) & (A)(8): (A)(7) If a generator determines he is managing a prohibited waste that is excluded from the definition of hazardous waste or waste, or is exempt from regulation as a hazardous waste under rules 3745-51-02 to 3745-51-06 of the OAC subsequent to the point of generation...including wastes managed in wastewater treatment systems subject to CWA... he shall place in the generator's files a one-time notice describing such generation, subsequent exclusion from the definition of hazardous waste ...or exemption from regulation as a hazardous waste, and the disposition of the waste; (A)(8) Generators shall retain on-site a copy of

all notices, certifications, waste analysis data, and other documentation produced pursuant to this rule for at least three years from the date that the waste that is subject to this documentation was least sent to on-site or off-site treatment, storage or disposal.

WPSC has not provided a copy of the one-time notification for the acid and alkali baths and sludges (D002) which are treated in WPSC's WWTP as required by paragraph (A)(7) of this rule. The April 2002 response states that these wastes are treated in their WWTP and thus exempt from RCRA regulation. In OAC Rule 3745-51-04(A)(2), the exclusion covering industrial wastewater discharges explains that "This exclusion applies only to the actual point discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment." Compliance can be demonstrated by submitting a copy of the required notifications to this office.

WPSC does not maintain the documentation required by this rule on-site but at their Wheeling, WV office. Paragraph (A)(8) of this rule requires that copies of all documentation required by this rule, as provided above, must be maintained on-site. This includes the notice for the treatment of the acid and alkali sludges in the WWTP. The January 2003 response refers to WPSC's April 2002 response, which asks if Ohio EPA can grant a variance from this rule since WPSC could provide the documentation during an inspection with advance notice. There is no variance available for this regulation.

WPSC will demonstrate compliance with this rule once this office has received the specific documentation cited herein (notification for the D002 baths) and WPSC demonstrates that this documentation will be maintained on-site.

On June 8 to 11, 1999, Ohio EPA and USEPA conducted a multi-media compliance inspection of this facility. Based on the information provided and observations made during the inspection, Ohio EPA sent a NOV to WPSC on August 26, 1999. Ohio EPA received WPSC's response on December 13, 1999. A second NOV was issued on June 30, 2000. A partial response, pertaining to the ARCO scrubber waste was received on December 4, 2000. A third NOV was issued March 19, 2001, and the response to the third NOV was received on April 23, 2001. The fourth NOV was sent on August 2, 2001; however, no response was received. A fifth NOV was sent on September 19, 2001. A response to that letter was received on October 15, 2001; however, it contained insufficient information and no documentation to demonstrate compliance for any of the cited violations.

The following violations remain outstanding from the June 1999 inspection:

5. **Prohibitions** ORC Rule 3734.02(E)&(F): No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter...

During the 1999 inspection, out-of-service equipment (the ARCO system duct work and a tank) containing hazardous waste (D008) was discovered in the "lay-down" yard, north of the Plant #1 building. Based on your air permit and discussions with plant personnel, the ARCO scrubber system was removed prior to June 1990, when the new scrubber system was installed. Based on this information, WPSC has stored this hazardous waste illegally from at least September 1990 until July 2, 2001 (when WPSC manifested the remainder of the ARCO waste off-site), well beyond the 90 days allowed for Large Quantity Generators.

Your January 2003 response refers to the response provided in WPSC's April 2002 letter which incorrectly explains that this material is not a waste because it was in a three-foot section of fiberglass duct that WPSC was storing outside for ten years because it might be used again. That explanation ignores the fact that this section of duct was approximately 3/4 full of residual waste when it was placed in "storage." Even if WPSC believed that this three-foot-long piece of duct was potentially useful or had value, the dried sludge inside it was not and was "discarded" by being "abandoned" as provided in OAC Rule 3745-51-02 and therefore a waste when storage of this duct began.

In order to demonstrate abatement of this violation, WPSC must demonstrate that no contamination remains from the ARCO scrubber waste that was stored in the lay-down yard **which is directly adjacent to the local public wellfield**. To make this demonstration, closure of this storage area in accordance with the requirements of OAC Rules 3745-66-10 through 3745-66-20 (including submittal and implementation of an approved closure plan) is required. This facility will be subject to all applicable TSD standards as set forth in OAC Chapters 3745-65 through 3745-65-69 until WPSC demonstrates that the closure standards in OAC Rule 3745-66-11 have been met through the implementation of an approved closure plan.

6. **Closure Plan**, OAC Rule 3745-66-12(A): The owner or operator of a hazardous waste management facility shall have a written closure plan.

WPSC does not have a closure plan for the ARCO Waste Storage Area. A formal closure plan is warranted based on the length of time that the waste (D002) was illegally stored (over ten years, increasing the potential for release and the distance the release could have traveled), the contaminant involved (lead - it does not degrade over time as organic compounds can), the release potential (the waste was not stored in a closed container) and data indicating the presence of lead in the nearby storm drain basin and rinseate data from the 1996 closure which was performed adjacent to this area. WPSC's January, 2003 response cites WPSC's April 2002 response, which stated that WPSC does not believe this rule is appropriate based on the definition of waste, please see #5 above. The closure plan should be prepared in accordance with Ohio EPA's Closure Plan Review Guidance (CPRG) for RCRA Facilities, March 1999. This violation will be abated once the closure plan for this area is received by this office and Ohio EPA's Central Office.

7. **Personnel training**, OAC Rule 3745-65-16(A)(2)&(3),(B)&(D): (A) This program...shall include instruction...including, but not limited to, contingency plan implementation. (B) Facility personnel shall successfully complete the training program within six months after date of employment or assignment to the facility, whichever is later. (D) The owner/operator shall maintain the following training documents and records at the facility: (1) job title and the employee's name for each position related to hazardous waste management; (2) a written job description for each position listed under (D)(1) of this rule... (3) a written description of type and amount of both introductory and continuing training that will be given each person filling a position; and records demonstrating that the training required under this rule has been given to, and completed by, facility personnel.

- A) During the November 2001 inspection, WPSC provided written documentation for training held in February of 2001. The documentation for training held in October/November was not yet available. However, this documentation did not cite all the required training subjects as listed in this rule, specifically, contingency plan implementation. This information must

be included in the training program, as required in part (A)(2) of this rule. The December 1999, April 2001, April 2002, and January 2003 responses did not specifically address this requirement. To demonstrate compliance with this portion of this rule, WPSC must provide an outline or summary of this training that indicates that all the required information was provided to employees.

- B) WPSC has not provided documentation which indicates that employees, either new employees or ones who have recently been assigned to positions which are required to receive this training, have received this training prior to working in unsupervised positions, as required by part (B) of this rule. The December 1999, April and October 2001, April 2002 and January 2003 responses did not specifically address this requirement. To demonstrate compliance, WPSC should provide: 1) written procedures stating how and when this training will be provided to the affected employees; and 2) documentation that these procedures have been implemented.
 - C) WPSC's December 1999 response provided some job titles/descriptions for some personnel at this plant. However, no job title/description was provided for the following personnel whose duties include those related to waste management activities or to actions taken during emergencies (such as releases/implementation of the contingency plan): the plant's environmental coordinator, other plant management personnel, personnel who complete manifests and LDR forms and plant guards. The April 2001, April 2002, and January 2003 responses did not specifically address this requirement. To demonstrate compliance, WPSC must provide copies of these employee's job titles/descriptions.
 - D) No documentation has been provided which indicates that WPSC maintains a written description of the type and amount of introductory and continuing training given to each person filling an affected job position, as required by (D)(3) of this rule. The December 1999, April 2001, and January 2003 responses did not specifically address this requirement. To demonstrate compliance, a copy of the training records for an affected employee must be provided to this office.
8. **Maintenance and operation of facility**, OAC Rule 3745-65-31: Facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any release of hazardous waste constituents to air, soil or surface water.
- A. At the time of the June 1999 inspection, WPSC had accumulated at least five different wastes in a remote portion of the facility, north of the Plant #1 building. These wastes had not been evaluated, labeled, dated or been placed into proper containers. In response to Ohio EPA's concerns voiced during the June 1999 inspection, WPSC sampled the wastes. One waste, from the former ARCO scrubber system was determined to be a D008 hazardous waste. This waste was not in a container and some of the waste had washed onto the ground and possibly into a nearby storm drain. Similar violations regarding hazardous waste storage were discovered in this same area during the September 1994 inspection. Several unidentified wastes, including at least 4 drums of hazardous waste, were stored in this same area for an unknown time period. WPSC's December 1994 response stated that a guard is used to control access to this area and that "the plant environmental contact" is responsible for materials placed in this area. The statement in the April 2001 response, that "plant

personnel have been reminded to prevent exposure of waste materials to the environment" is not adequate to abate this violation. Based on the violations cited in the 1994 and 1999 hazardous waste inspections, it is obvious that the controls WPSC have used to identify, evaluate and manage wastes at this plant are inadequate.

The April 2002 response states that WPSC believes that this rule does not apply to this facility but that WPSC is drafting ISO 14001 procedures for overall waste management at all WPSC plants; however, no documentation was provided. Compliance will be demonstrated when WPSC provides documentation to this office which indicates that this plant has implemented procedures for properly identifying, evaluating and managing all wastes that are generated on-site and for decontaminating tanks or other equipment which may contain hazardous wastes when they are taken out of service.

- B. During the 2001 inspection, extensive staining was observed under the process line where Chemtreat is applied to the steel. The April 2002 response states that these are "de minimus losses." The exemption in OAC Rule 3745-51-03 (A) for these types of losses applies to discarded chemical products or chemical intermediaries listed in OAC Rule 3745-51-33. WPSC has not produced any documentation that this material meets any of these listings. The April 2002 response also states that these spills have floor dry applied to them and this waste is collected sometime after saturation. These procedures, with no timeframe for removal of waste, are inadequate. The leakage/spillage must be cleaned up in a more timely manner and leaks, if present, must be repaired promptly. Compliance will be demonstrated when WPSC: 1) drafts appropriate procedures for addressing these spills; 2) posts these procedures at the Chemtreat equipment and trains the employees responsible for this area on these procedures; and 3) provides copies of these procedures and documentation that the affected employees have received this information.

No actions are required at this time for the following violations (#9, #10 & #11, below). These will be abated once WPSC completes the activities contained in an approved closure plan for the ARCO Waste Storage Area.

9. **General inspection requirements**, OAC Rule 3745-65-15;
10. **General waste analysis**, OAC Rule 3745-65-13;
11. **Operating record**, OAC Rule 3745-65-73.

General Comment:

Please note that WPSC is required to provide a closure cost estimate and establish financial assurance for the ARCO Waste Storage Area closure pursuant to OAC Rule 3745-66-40 et seq. These requirements apply to unpermitted Treatment, Storage or Disposal Facilities (TSDFs). If you have questions regarding closure cost estimates and financial assurance requirements, please contact Issac Wilder at Ohio EPA's Central Office, (614) 644-3067.

Mr. Bud Smith
Environmental Director
Wheeling Pittsburgh Steel Corporation
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Failure to list specific deficiencies or violations in this letter does not relieve WPSC from the responsibility of complying with all applicable regulations. This letter does not relieve WPSC from liability for any past or present violations of the State's hazardous waste laws and regulations. If you have any questions regarding pollution prevention or recycling, please refer to the Office of Pollution Prevention's website at www.epa.state.oh.us/opp/.

Response to this letter should be provided within 30 days from the date of this letter. Should you have any questions concerning the above, please call me at (740) 380-5278.

Sincerely,



Richard Stewart
District Representative
Division of Hazardous Waste Management

RS/sb

cc: Harry Page, WPSC-Wheeling, WV
Pat Smith, WPSC-Steubenville South
Tammy McConnell, DHWM, CO
Jim Kavalec, DHWM, CO
Issac Wilder, DHWM, CO
Gregory Poulos, AGO
Robert D. Smith, USEPA Region V